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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,576	07/12/2001	Masaru Kogure	32405W084	3624

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Smith, Gambrell & Russell, LLP  
Beveridge, DeGrandi, Weilacher & Young  
Intellectual Property Group  
1850 M Street, N.W. (Suite 800)  
Washington, DC 20036

EXAMINER

CATHEY II, PATRICK H

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/902,576

Applicant(s)

KOGURE ET AL.

Examiner

Patrick H. Cathey II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-9 is/are rejected.
- 7) ☒ Claim(s) 3 and 10-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim's 1, 4, 6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Saneyoshi et al. (US 5,410,346).

As for Claim 1, Saneyoshi et al. teaches that the optical system (10) for taking images is in the front view of the vehicle (Column 2, lines 46-47; see also figures 1 and 2). He also teaches a calculating method for the brightness data of the image (Column 9, lines 53-63). He then shows that if there is a fail occurring then a fail-safe measure, or a warning, would take place (Column 7, lines 33-39).

As for Claim 4, Saneyoshi et al. teaches that the maximum value is indicated (Column 29, line 64 to Column 30, line 4).

As for Claim 6, Saneyoshi et al. teaches that the edges are within the predetermined values (Column 12, lines 42-54).

As for Claim 8, Saneyoshi et al. teaches calculating the distance between the car and the object (Column 7, lines 52-62).

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As for Claim 9, Saneyoshi et al. teaches the monitoring section is set on the upper section of the image where the vehicle ahead is located (Column 13, lines 37-45).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim's 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saneyoshi et al. in view of Yasui et al. (US 6,091,833).

Most of the limitations for this claim have been addressed above in claim

1. As for Claim 2, Saneyoshi et al. fails to teach that the data indicates a horizontal distribution on the image, but Yasui et al. does (Column 10, lines 55-65). Since Yasui's et al. system will allow for guide detection of lanes, it would have been obvious for one of ordinary skill to have the data indicate a horizontal distribution on the image.

Most of the limitations for this claim have been addressed above in claim's 1 and 6. As for Claim 7, Saneyoshi et al. fails to teach that the number of data is the number of edges, but Yasui et al. does (Column 21, lines 43-50). Since the data is the number of the edges in this case, it would have been obvious for one of ordinary skill to make the number of data the number of edges.

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Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saneyoshi et al. in view of Yasui et al. and further in view of Stam et al. (US 6,587,573).

Most of the limitations for this claim have been addressed above in claim's 1 and 2. As for Claim 5, Saneyoshi et al. fails to teach that the characteristic value included the variance on the image, but Stam et al. does (Column 47, lines 8-31). Since the variance provides critical information regarding the outside conditions of the road, it would be obvious for one of ordinary skill to include the value of the variance on the image.

#### ***Allowable Subject Matter***

Claim's 3 and 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pruksch et al. (US 5,955,941) teaches a fail-safe method if lights are blinding the driver. Ishikawa et al. (US 6,549,124) teaches a method of detecting an approaching vehicle and giving off an alarm if the vehicle violates predetermined values. David (US 4,833,469) teaches a system that warns the

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driver if there is an obstacle present. Akita (US 6,282,478) teaches fail-safe methods when vehicles or obstacles are in danger to the driver.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick H. Cathey II whose telephone number is (703) 305-4909. The examiner can normally be reached on M-F 7:30 to 5:00 (Every other friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (703) 503-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patrick H. Cathey II  
Examiner  
Art Unit 2613

PHC II

  
CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600